

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 22ND JANUARY 2007 / 2ND MAGHA 1928

WP(C).No. 584 of 2007(T)

PETITIONER:

JAYAKUMAR, S/O.KRISHNAN NAIR,
SARASWATHI MANDIRAM, MANAKKADU VILLAGE,
THODUPUZZHA.

BY ADV. SRI.UNNIKRISHNAN.V.ALAPATT

RESPONDENT:

THE SPECIAL TAHSILDAR (LA),
THODUPUZZHA.

BY GOVERNMENT PLEADER SRI.L.G.SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE REPLY STATEMENT FILED BY THE PETITIONER DATED 14.5.2005.

EXT. P2: COPY OF THE PROTEST SUBMITTED BY THE PETITIONER TO THE RESPONDENT
DATED 29.6.2005.

EXT. P3: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 29.7.2005.

EXT. P4: COPY OF THE APPLICATION SUBMITTED BY THE PETITIONER DATED 19.8.2005.

EXT. P5: COPY OF THE ORDER PASSED BY THE RESPONDENT DATED 9.12.2005.

/TRUE COPY/

P.A. TO JUDGE

K.T.SANKARAN, J

W.P.(C). No. 584 of 2007

Dated this the 22nd day of January, 2007

JUDGMENT

The petitioner filed Ext.P3 application dated 29.7.2005 before the Land Acquisition Officer praying that the case may be referred to the Land Acquisition court under Section 18 of the Land Acquisition Act. The petitioner received notice under Section 12(2) of the Act on 29.6.2005. It is stated in Ext. P3 that the amount awarded is low. The survey number and the extent of the property and the land acquisition case number are also mentioned in Ext. P3. Later, on 19.8.2005, the petitioner filed Ext.P4 application for reference in form 22A under Rule 16A of the Land Acquisition (Kerala) Rules. The Land Acquisition Officer passed Ext. P5 order rejecting the application for reference on the ground that the application is barred by limitation. In Ext. P5, it is stated that notice under Section 12(2) of the Act was received by the petitioner on 29.6.2005 and the application for reference was made on 19.8.2005 and therefore the application is barred by limitation. The Land Acquisition Officer considered only Ext. P4 application. Ext.P3 application

filed by the petitioner within time and seeking for reference was not at all considered by the Land Acquisition Officer.

2. It would appear that the Land Acquisition Officer took the view that it is mandatory that an application for reference should be filed in form 22A. In Jameson v. State of Kerala (2006 (3) KLT 186), it was held that even if an application for reference does not conform to form 22A, it cannot be said that the application for reference is defective. It was held therein that the rule making authority has no power to prescribe for a form like form 22A since it would be beyond the rule making power under Section 55 of the Act. In view of the decision in Jameson v. State of Kerala, Ext. P5 is liable to be quashed.

3. Accordingly, Ext. P5 is quashed. The Land Acquisition Officer shall consider Ext. P3 application as a proper application for reference under Section 18 of the Act filed within time and shall pass appropriate orders making a reference to the appropriate court.

The Writ Petition is allowed as above.

**K.T.SANKARAN,
JUDGE**

csl

